



The Honorable Judge Paul Engelmayer
District Judge
Southern District of New York

September 08, 2023

Re: Medical expert opinion that Mr. Teman was unfit to prepare-for or stand trial in US v Teman

Your Honor and to whom it may concern:

My name is Dr. Alon Seifan, I am a Board-Certified Neurologist, with UCNS-Certification in Behavioral Neurology & Neuropsychiatry. Ari Teman (date of birth 05/10/1982) was evaluated in my office on 11/01/2021. Ari underwent Neurological Evaluation, Psychiatric Diagnostic Interview, and Comprehensive Psychosocial Assessment. In addition, I have reviewed Ari's medical records from October 2019 through February 2020. It is my professional opinion that Ari Teman was not mentally fit to prepare for or stand trial during this period. In fact, his condition was so severe that he would not have been able to determine this himself.

Ari meets diagnostic criteria for several, co-morbid Neuropsychiatric diagnoses that cause significant disability in work, education and personal life. Specifically, he was diagnosed with Bipolar Disorder, type 2 (F31.0); Migraine with Aura (G43.109), Attention Deficit Disorder, Combined Type (F90.2), Chronic Pain Syndrome (G89.4). He was also recently diagnosed with Narcolepsy (G47.41). These conditions are significantly exacerbated by psychosocial stress. In addition, these conditions can be worsened by certain medications, and also by sleep deprivation. During the time that Ari was preparing to stand for trial, he was not taking the correct medicine. Also, he was exposed to medicines that exacerbate his condition. Also, he was subject to significant REM sleep deprivation. This opinion is consistent with the opinion of other mental health professionals who have treated Mr. Teman, as explained in detail below.

Summary of medical records:

Mr. Teman visited neurologist Dr. Steven Resnick on October 4, 2019, who prescribed Tizanidine, due to severe headaches and physical pain throughout the body preventing sleep. This did not help and caused additional side effects including psychosis. Mr. Teman was admitted to the Mount Sinai Medical Center (Miami Beach) Emergency Room on December 11, 2019 and diagnosed with Narcolepsy. Mr. Teman was prescribed Zaleplon ("Sonata"), but this medication was not effective in treating the sleep deprivation and caused worse side effects, including psychotic episodes. Mr. Teman then visited Dr. Paul Kleidermacher, MD, a sleep medicine specializing ENT in Coral Gables on December 12, 2019. Dr. Kleidermacher recommended Ari walk 3 miles a day, but this was not effective, as noted in Ari's email to counsel on December 25, 2019. Mr. Teman then visited Ketamine Health Centers Coral Gable for a Ketamine IV on December 13th, due to severe depression, which was exacerbated by sleep deprivation.

Mr. Teman wrote to trial counsel, Gelfand and DiRuzzo, copying Attorney Ariel Reinitz, on December 16th, in an email entitled, "I'm getting 4% REM sleep... effectively torture", "IDK what to do. No idea how to fix this. Also arguably this puts me outside the range of mental competency after a prolonged period." Mr. Teman then wrote to his counsel, Justin Gelfand and Joseph DiRuzzo on December 25th, in an email entitled, "Severe REM sleep deprivation". The body of the email is copied below:

"Hi guys,

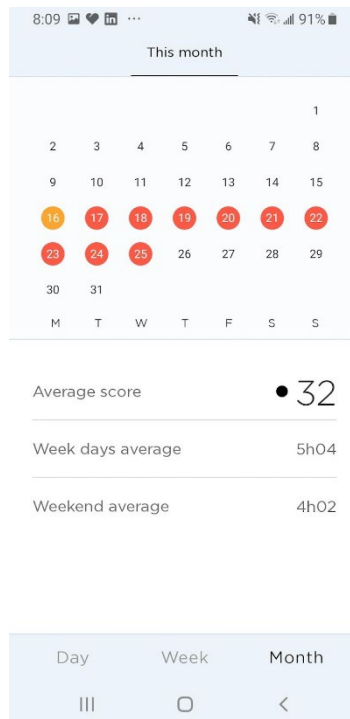
Merry Christmas & Happy Hannukah, guys.

I don't know what to do about this and I'm seeing another sleep expert on Friday but as an update I'm getting less than 5 hours sleep a night, really about 3-4, and severe REM deprivation.

This is torture, what the CIA uses for "advanced interrogation". We can't honestly say I'm mentally ok to stand trial in this state, especially if it continues another month. I'm in real physical pain from it, too. It's difficult to be productive like this, too. I really have no ideas... Hopefully the sleep guy does. The walking three miles idea didn't work.

Ari"

Ari's sleep tracker shows from December 16 to the date of his email on December 25th showed that he was getting less than 5 hours of sleep on average, and with a sleep score of 32 out of 100. Notably all but one day are red, it showed an alarmingly poor quality of sleep. Mr Teman provided this screenshot to his counsel in that email:



On December 27, 2019 Ari visited Dr. Edward Mezerhane, Board-Certified adult and pediatric Sleep Medicine specialist. Dr. Mezerhane prescribed a sedative (Trazodone), which was not intended for long-term use and could not address the underlying causes of sleep deprivation. Dr. Mezerhane ordered an at-home sleep study which was not able to be done until February 2020, after the trial. The sleep study results noted an Epworth Score of 15. The CDC explains, "A score of 10 or greater raises concern: you may need to get more sleep, improve your sleep practices, or seek medical attention to determine why you are sleepy." The study ruled-out apnea and suggested an in-clinic study and additional examination. An Epworth Score of 15 would mean that Mr. Teman could not be alert, aware, or lucid during trial or in the months leading up to trial, and would have memory consolidation and recall issues. The presence of multiple, untreated co-morbidities would have significantly worsened this cognitive deficit.

On Feb 20, 2020 Ari was treated by Georgiy Brusovanik M.D. and prescribed steroids and physical therapy. This appears to have helped restore sleep and eliminate the need for sedatives. However, steroids can exacerbate psychosis and mania in people diagnosed with bipolar disorder. On June 22, 2020, Dr. Nicholas Scheidt who treated Mr. Teman, wrote in his letter: "Moreover, he [Teman] described in detail his severe problems with focus, memory and concentration and stated that he had a hard time running his business as he was constantly sleep deprived. Furthermore, Mr. Teman reported he had suffered from chronic tension headaches as well as sleep apnea and this combined with his sleep deprivation resulted in his gaining of ten pounds".

On August 20, 2023, Mr. Teman's treating therapist Rafael Villetea López, wrote in his letter: "I would also like to bring to your honor's attention an email Ari shared with me between himself and his trial attorney dated December 25, 2019, in which he discussed severe sleep deprivation. I've also had access to some notes from shortly before the trial in which Ari talks about suicide. After examining these factors and from my experience in similar cases, I do not believe that Ari could have cooperated with, understood, or helped his attorney. Under such conditions, I don't think he had sufficient cognitive and memory capacity to face the trial sessions effectively."

The cumulative evidence presented above supports my conclusion that Mr. Teman was not fit to prepare-for or stand trial from October 2019 through February 2020. It is impossible that Mr. Teman could have been cognitively and/or emotionally during the

time between December 11, 2019 and January 20, 2020, given the multiple psychotic episodes. It is certainly impossible that he could have recovered in time before that to help his counsel prepare for trial. Simply put, psychosis and sleep deprivation rendered Ari in a state similar to sleepwalking, during which he would have been unable to both store and recall memories. Despite this cognitive deficit, Mr. Teman could have appeared cooperative and engaged because psychosis can be difficult to detect by an untrained professional.

Moreover, the suicide note addressed by the Court on January 10th, less than two weeks before trial, shows that Mr. Teman was undoubtedly in a state of extreme depression with psychosis. It is likely that the sedatives and medications he was prescribed as a temporary measure were not the appropriate treatment and may in fact have caused or exacerbated the psychosis. At that time, Mr. Teman was clearly and unmistakably temporarily insane and in need of treatment. In that state, Mr. Teman was incapable of making informed decisions, and would be easily coerced and manipulated. In support of this is the fact that appeal counsel and his parents both independently reported that Mr. Teman does not remember much of what occurred during the trial. This is consistent with what would be expected to happen during a psychotic episode with sleep deprivation.

In that state of sleep deprivation and psychosis, Mr. Teman lacked the insight to be aware of his deficit, much in the same way that a sleepwalker is able to make a meal, or even book a plane ticket, without any recollection of having done so the next morning. Mr. Teman previously answered to the Court that he was hesitating in answering whether he was fit to stand trial because an insane person wouldn't know they were insane. This statement was accurate. It would have been impossible for Ari to self-assess his mental health at that time.

The extreme physical pain Mr. Teman noted in emails to counsel and to his therapists and physicians would also be a motivation to rush through a trial in a distant city, which he mistakenly believed to be causing the symptoms, so he could return to bed. Mr. Teman was unfit to prepare for or stand trial and was coerced into doing so while in excruciating and debilitating pain so severe that he struggled to sit up straight in a chair or stay alert and focused. Those mental health professionals who have treated Mr. Teman for long periods of time, before and after trial come to the same conclusion. In fact, Mr. Teman explained that he felt coerced into proceeding by his trial counsel as he had no money to pay them and was unable to work or care for himself. His counsel told him that they did not need his participation because all they needed to do was prove he did not technically forge checks. They advised him to sit still and keep his head up, which he found painful in and of itself, given his severe exhaustion.

Conclusion:

It is my professional opinion, shared with the aforementioned professionals who treated and continue to treat Mr. Teman, that he was extremely unfit to prepare for or stand trial or to make any legal decisions in December 2019 through February 2020. I can say unequivocally that Mr. Teman was not remotely emotionally, cognitively or physically stable during the period leading up to the trial. The psychosis should have been grounds for trial counsel to immediately call for a mental health evaluation and recovery period. Trial counsel made an error by not disclosing the emails of December 16 and 25, 2019 and January 12, 2020 to Your Honor immediately, and by not disclosing that their client was unable to remember key facts or organize his thoughts, and was thus unable to assist in his own defense. Furthermore, because of his state at the time, Mr. Teman is reasonably expected to have significant difficulty remembering key facts and events and would be at a severe disadvantage in ongoing litigation of the matter. It is my recommendation that a new trial be ordered after Mr. Teman is medically cleared.

Should you have any further questions please do not hesitate to contact me.

Respectfully,

A handwritten signature in cursive script, appearing to read 'Alon Seifan MD'.

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